IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

WP(C).No. 32562 of 2006(B)

PETITIONER:

SULEKHA, W/O.SUPPI, AGED 36 YEARS,
CHERUVERI VEEDU, PUTHUSSERIKADAVU P.O.,
KUPPADITHARA, WAYANAD DISTRICT.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO DEPARTMENT OF HOME,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE SUB INSPECTOR OF POLICE,
PADINJARETHARA POLICE STATION,
PADINJARETHARA, WYNAD DISTRICT.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:TRUE COPY OF FIR NO.154 OF 2006 OF THE PADINJARETHARA POLICE STATION.

EXT.P2:TRUE COPY OF PAPER REPORTS PUBLISHED IN VARIOUS NEWSPAPERS IE.RASTRADEEPIKA DT.25.11.2006, 29.11.2006, CHANDRIKA DT.25.11.2006 MANORAMA DT.1.11.2006 ETC.

EXT.P3:TRUE COPY OF PETITION DT. NIL SINGED BY THE WOMEN OF THE AREA.

/TRUE COPY/

P.A TO JUDGE

R.BASANT, J

W.P(C).No.32562 of 2006

Dated this the 13th day of February, 2007

JUDGMENT

The petitioner is the defacto complainant/victim and she has raised allegations under Section 452, 354 and 506(1) I.P.C in the F.I statement lodged by her. She has come to this Court with a grievance that proper investigation is not being conducted by the police and there is susceptibility on the part of the police to accept the version of the accused without proper and appropriate investigation. It is, in these circumstances, that the petitioner prays that the investigation may be entrusted to a more senior and competent police official.

2. The F.I statement is lodged on 15.11.2006 before the Superintendent of Police of the district. In the F.I statement, it is alleged that at 7.30 p.m on 13.11.2006, the accused, an influential politician of the locality had trespassed into the house of the victim and had attempted to outrage her modesty. She had applied for a housing loan. The first instalment of Rs.25,000/- had been paid. The next instalment of Rs.25,000/- remains to be paid. The accused has a say in the matter and his words would count to decide whether she would get the next instalment of the loan or not. It is the case of the complainant/petitioner that using that circumstance, the accused went to her residence and attempted to outrage her modesty. She has

no case that any other person witnessed the incident. She does not have a case that she has made a hue and cry and any other person had come to her home on hearing the same. It is her case that she did not reveal that incident even to her husband on that day. It is only later that she revealed the incident to her husband and it is thereafter that the complaint was lodged before the Superintendent of Police. The Superintendent of Police referred the same to the local police and accordingly, the F.I.R was registered on 16.11.2006.

3. The petitioner has a case that the accused is very influential and he is a member of the local Panchayat. The party position in the Panchayat is precariously balanced and one vote can tilt the scales. The accused is very powerful and is in a position to dictate terms with the political leaders. On account of such political clout of the accused, no proper investigation is being conducted. There is a propensity to accept a convenient defence urged by the accused that he was elsewhere and could not have been present at the scene of the crime at the alleged time of occurrence. It is, in these circumstances, that the petitioner has come to this Court complaining about the inadequate and improper investigation.

4. As the complaint is about inadequate investigation, the learned Government Pleader was requested to make the case diary available to the Court. I have perused the case diary in detail.

5. At this stage, I shall carefully avoid any detailed reference to facts, lest it might prejudice the interests of the parties. I intend to express no opinion on the acceptability of the allegations or the credibility of the data collected. Suffice it to say that at the end of the day, after perusing the case diary in detail, I am certainly persuaded to agree that the matter deserves more serious, efficient and proper investigation. I am satisfied, that the interests of justice will be served ideally by directing that a senior police official, not below the rank of a Deputy Superintendent of Police, to be chosen by the Superintendent of Police, Wayanad, must conduct the investigation in this case. Such Investigating Officer must closely consider all the materials collected and must also further examine the witnesses already examined and others who can tender useful information. I would only mention that after going through the case diary in detail, I am of the impression that a sufficiently serious, objective and careful investigation has not been conducted in the matter.

6. This Writ Petition is, accordingly allowed in part, to the above extent. The learned Government Pleader shall forthwith convey the direction to the Superintendent of Police, Wayanad.

(R.BASANT, JUDGE)

rtr/-